

IN THE UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA, FORT MYERS DIVISION

In Re:

BRUCE E. BOZZI, SR.,

Case No. 9:19-bk-09677-FMD

Debtor. /

AMENDED MOTION TO SELL PROPERTY OF THE ESTATE

COMES NOW the Trustee in the above-styled case, ROBERT E. TARDIF JR., and files this Motion to Sell Property of the Estate and moves this Court pursuant to 11 U.S.C. §§ 105 and 363(b) and Rule 6004 for entry of an Order authorizing the sale of property of the estate by private sale and states as follows:

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at Sam M. Gibbons United States Courthouse, 801 N. Florida Avenue, Suite 555, Tampa, Florida 33602, and serve a copy on the movant's attorney, Robert E. Tardif Jr., P.O. Box 2140, Fort Myers, FL 33902, and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing or consider the response and grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

1. The Debtor filed this bankruptcy case and Robert E. Tardif Jr., has been appointed as Trustee to administer the case.
2. **Property:** Trustee proposes to sell the bankruptcy estate's interest in the following property: **5 Surf Drive, Amagansett, New York (Tax Map Designation 0300-174-00-03-00-001-000)**. The property is a residential parcel of real estate and is improved with a residential home. On the date of filing, the Debtor was the sole owner of the property.
3. **Purchaser:** The proposed purchaser is Blaine Lourd, Trustee of the 37 Cottage Avenue Trust, or his permitted assigns or designees. To the Trustee's knowledge, the owners/beneficiaries of the trust are Bruce E. Bozzi, Jr., and Bryan Lourd, who are the Debtor's son and son-in-law, respectively. Notwithstanding the purchaser's connection to the Debtor, the Trustee believes that he is receiving fair and adequate consideration as noted below. The purchase and sale agreement with attachments is several pages long so the Trustee is not attaching the agreement to this motion in order to reduce mailing costs. The Trustee will provide a complete copy of the agreement to any party in interest that makes a request and provides an email address to receive a copy.

4. **Price:** The selling price is \$1,800,000.00. The Trustee has not had the property appraised, but the Trustee did retain a real estate agent to market the property. The Debtor valued this property at \$1,750,000.00 in his schedules. During the course of marketing the Trustee received three separate offers for the property in the amount of \$1,500,000.00, including an initial offer from the above proposed purchaser. The two other offers were from prospective purchasers who were not connected in any way to the Debtor or any other insiders known to the Trustee.

5. The Trustee, through the real estate agent, advised all parties to submit their highest and best offers. The Trustee received the following two offers: (1) \$1,800,000.00 all cash from the above-referenced purchaser; (2) \$1,720,000.00 all cash from one of the third parties unconnected to the Debtor or any insiders. The Trustee, after performing his due diligence and after marketing the property through a real estate agent that is also unconnected to the Debtor or any insiders, believes that the proposed selling price is fair and reasonable.

6. **Source of Funds for Purchase:** During his due diligence concerning the sale of another property in this case to the same proposed purchaser the Trustee received and reviewed monthly statements for financial accounts from which the money to purchase the other property and this property is being received. From that review, the Trustee represents to the Court that none of the funds being used to purchase this property come from the Debtor or any insiders, either directly or indirectly.

7. To the Trustee's knowledge, there are the following liens and encumbrances against the property:

Creditor	Nature of Interest	Amount
Bank of America, N.A. c/o Andrew T. Jenkins Post Office Box 3913 Tampa, Florida 33601-3913	Mortgage	936,374.00 Proof of Claim 16-1
Just One More Restaurant Corp. & Just One More Restaurant Holdings 8955 Fontana del Sol Way 2 nd Floor Naples, Florida 34109	Judgment Lien	\$126,058,033.00 Proofs of Claim 2-1 & 4-1

8. As part of the closing of this proposed sale, the Trustee anticipates that the mortgage loan above will be paid in full and the judgment lien will be released.

9. **Terms:** The property is being sold "AS IS, WHERE IS WITH ALL FAULTS AND DEFECTS THEREIN" with no representations or warranties of any kind.

10. **Benefit to Estate:** The Trustee believes the net sales proceeds to the estate will be approximately \$760,000.00.

11. **Payments at Closing:** The Trustee expects to pay the following undisputed liens, interests, claims or costs at the closing:

- a. Real Estate Commission - \$90,000.00 to Douglas Elliman Real Estate and cooperating broker/agent, if any.
- b. Mortgage Loan Payoff - \$936,374.00 (estimated) or such other written payoff amount provided by Bank of America, N.A.
- c. Reasonable and customary closing costs to the Trustee, as Seller, which may include the following:
 - i. Title/Recording Fees (Approximately) \$ 1,900.00
 - ii. Reasonable and customary closing costs not to exceed \$ 1,000.00
 - iii. Transfer Tax Document Preparation \$ 475.00
 - iv. Transfer Tax (State and/or County) \$ 7,200.00
- d. A true and accurate copy of an estimated net sheet or closing statement is attached to this motion.

12. **Request to Waive Stay:** At the hearing on this motion the Trustee will request that the Court enter an order waiving the 14-day stays set forth in Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedure and providing that the order granting this motion be immediately enforceable and that the closing under the purchase agreement may occur immediately.

WHEREFORE the Trustee moves the Court for entry of an Order authorizing the sale of the above-described property free and clear of liens and interests pursuant to Section 363(b), in accordance with the terms stated herein.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished **Electronically** to the Assistant United States Trustee, Robert A. Shatzman and those appearing in this case who are registered with CM/ECF and by **Certified Mail** to Bank of America, N.A., c/o Brian Moynihan, Chairman of the Board and Chief Executive Officer, 100 North Tryon Street, Suite 170, Charlotte, NC 28202 by **Regular U.S. Mail** to Bank of America, N.A., c/o Kathleen L. DiSanto, Esq., 1801 N. Highland Avenue, Tampa, FL 33602 and Bruce E. Bozzi, Sr., 2161 Gulf of Mexico Drive, Longboat Key, FL 34228 and those creditors and parties in interest on the attached matrix on February 5, 2020 that are required to be served pursuant to Local Rule 2002-1(c).

/s/ Robert E. Tardif Jr.
Robert E. Tardif Jr., Esquire
P.O. Box 2140
Fort Myers, Florida 33902
Telephone: 239/362-2755
Facsimile: 239/362-2756
Email: rtardif@comcast.net

1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> RHS	3. <input type="checkbox"/> Conv. Unins.	6. File Number:	7. Loan Number:	8. Mortgage Insurance Case Number:
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.				

C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. Name & Address of Borrower: Blaine Lourd, as Trustee of 37 Cottage Avenue Trust	E. Name & Address of Seller: Robert E. Tardif Jr., Trustee for Bruce E. Bozzi, Sr.	F. Name & Address of Lender:
G. Property Location: 5 Surf Drive Amagansett, New York	H. Settlement Agent: Place of Settlement:	I. Settlement Date:

J. Summary of Borrower's Transaction

100. Gross Amount Due from Borrower		
101. Contract sales price		\$1,800,000.00
102. Personal property		
103. Settlement charges to borrower (line 1400)		
104.		
105.		
Adjustment for items paid by seller in advance		
106. City/town taxes	to	
107. County taxes	to	
108. Assessments	to	
109.		
110.		
111.		
112.		
120. Gross Amount Due from Borrower		
200. Amount Paid by or in Behalf of Borrower		
201. Deposit or earnest money		
202. Principal amount of new loan(s)		
203. Existing loan(s) taken subject to		
204.		
205.		
206.		
207.		
208.		
209.		
Adjustments for items unpaid by seller		
210. City/town taxes	to	
211. County taxes	to	
212. Assessments	to	
213.		
214.		
215.		
216.		
217.		
218.		
219.		
220. Total Paid by/for Borrower		
300. Cash at Settlement from/to Borrower		
301. Gross amount due from borrower (line 120)		
302. Less amounts paid by/for borrower (line 220)	()	
303. Cash	<input checked="" type="checkbox"/> From <input type="checkbox"/> To Borrower	\$1,800,000.00

K. Summary of Seller's Transaction

400. Gross Amount Due to Seller		
401. Contract sales price		\$1,800,000.00
402. Personal property		
403.		
404.		
405.		
Adjustment for items paid by seller in advance		
406. City/town taxes	to	
407. County taxes	to	
408. Assessments	to	
409.		
410.		
411.		
412.		
420. Gross Amount Due to Seller		
500. Reductions In Amount Due to Seller		
501. Excess deposit (see instructions)		
502. Settlement charges to seller (line 1400)		\$99,800.00
503. Existing loan(s) taken subject to		
504. Payoff of first mortgage loan		\$936,374.00
505. Payoff of second mortgage loan		
506.		
507.		
508.		
509.		
Adjustments for items unpaid by seller		
510. City/town taxes	to	
511. County taxes	to	
512. Assessments	to	
513.		
514.		
515.		
516.		
517.		
518.		
519.		
520. Total Reduction Amount Due Seller		
600. Cash at Settlement to/from Seller		
601. Gross amount due to seller (line 420)		\$1,800,000.00
602. Less reductions in amounts due seller (line 520)	()	\$1,036,174.00
603. Cash	<input checked="" type="checkbox"/> To <input type="checkbox"/> From Seller	\$763,826.00

702. \$	to			Settlement	Settlement
703. Commission paid at settlement:					
704.					

800. Items Payable in Connection with Loan

801. Our origination charge	\$	(from GFE #1)		
802. Your credit or charge (points) for the specific interest rate chosen	\$	(from GFE #2)		
803. Your adjusted origination charges		(from GFE #A)		
804. Appraisal fee to		(from GFE #3)		
805. Credit report to		(from GFE #3)		
806. Tax service to		(from GFE #3)		
807. Flood certification to		(from GFE #3)		
808.				
809.				
810.				
811.				

900. Items Required by Lender to be Paid in Advance

901. Daily interest charges from	to	@ \$	/day	(from GFE #10)		
902. Mortgage insurance premium for		months to		(from GFE #3)		
903. Homeowner's insurance for		years to		(from GFE #11)		
904.						

1000. Reserves Deposited with Lender

1001. Initial deposit for your escrow account			(from GFE #9)		
1002. Homeowner's insurance	months @ \$	per month	\$		
1003. Mortgage insurance	months @ \$	per month	\$		
1004. Property Taxes	months @ \$	per month	\$		
1005.	months @ \$	per month	\$		
1006.	months @ \$	per month	\$		
1007. Aggregate Adjustment			-\$		

1100. Title Charges

1101. Title services and lender's title insurance			(from GFE #4)		
1102. Settlement or closing fee		\$			
1103. Owner's title insurance			(from GFE #5)		
1104. Lender's title insurance		\$			
1105. Lender's title policy limit \$					
1106. Owner's title policy limit \$					
1107. Agent's portion of the total title insurance premium to		\$			
1108. Underwriter's portion of the total title insurance premium to		\$			
1109. Title & Recording Fees/Title Closer Attendance					\$1,900.00
1110.					
1111.					

1200. Government Recording and Transfer Charges

1201. Government recording charges			(from GFE #7)		
1202. Deed \$	Mortgage \$	Release \$			
1203. Transfer taxes			(from GFE #8)		
1204. City/County tax/stamps	Deed \$	Mortgage \$			
1205. State tax/stamps	Deed \$	Mortgage \$			\$7,200.00
1206. Transfer Document Preparation and Deed Preparation					\$700.00

1300. Additional Settlement Charges

1301. Required services that you can shop for			(from GFE #6)		
1302.		\$			
1303.		\$			
1304.					
1305.					

1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)

\$99,800.00

Label Matrix for local noticing

113A-9

Case 9:19-bk-09677-FMD

Middle District of Florida

Ft. Myers

Wed Feb 5 15:22:28 EST 2020

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Steven J Solomon
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333 S.E. 2nd Avenue, Suite 3200
Miami, FL 33131-2191

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Gary Ganzi and Claire Breen as Attorneys-i

(u)MCP II Jefferson, LLC

(d)Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

(d)Just One More Restaurant Corp.
8955 Fontana del Sol Way, 2nd Floor
Naples, FL 34109-4428

(u)Claire Breen

(u)Gary Ganzi

(u)Victor F. Ganzi

End of Label Matrix	
Mailable recipients	60
Bypassed recipients	7
Total	67